

Atty Docket No.: 01-1004

REMARKS

Applicant submits this Response in response to the Office Action mailed July 1, 2005. Applicant has amended claims 3, 4, 7, 8, 11 and 12. No new matter has been added. Claims 1-12 and 16-17 remain pending.

In paragraph 2 of the Office Action, the Examiner has rejected claims 3, 7 and 11 under 35 U.S.C § 112 ¶ 1 as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains to make and/or use the invention. Applicant has amended claims 3, 7 and 11 to correct these claims to comport with the current scope of their base independent claims, and believes the Examiner's concerns have been addressed. Applicant therefore respectfully requests that the Examiner withdraw the rejections of claims 3, 7 and 11.

In paragraph 3 of the Office Action, the Examiner has rejected claims 1-12 and 16 under 35 U.S.C § 102(e) as being anticipated by U.S. Patent No. 6,564,261 to Gudjonsson et al. ("Gudjonsson"). In paragraph 4 of the Office Action, the Examiner has rejected claim 17 under 35 U.S.C § 103 as unpatentable over Gudjonsson in view of U.S Patent No. 6,584,122 to Matthews et al. ("Matthews"). Applicant traverses these rejections, as further discussed below.<sup>1</sup>

As Applicant understands the Examiner's assertions in the Office Action, the Examiner believes:

- (i) Gudjonsson describes instant messaging because it mentions the use of Session Initiation Protocol (SIP) messages, and "SIP is the application layer protocol for" instant messaging (Office Action, p. 7); and
- (ii) Gudjonsson describes routing logic (which the Examiner has asserted corresponds to the claimed "one or more rules") and describes connecting a "text chat" communication between

<sup>1</sup> As Applicant's remarks with respect to Applicant's amended claims and the Examiner's rejections are deemed to be sufficiently persuasive to overcome these rejections, Applicant's silence as to other requirements applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references) is not a concession by Applicant that such requirements have been met, and Applicant reserves the right to analyze and dispute such in the future

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devices using SIP messaging (which the Examiner has asserted corresponds to setting the rules "based on information in the first instant message") (Office Action, p. 4-5.)

As to the Examiner's characterization of SIP, Applicant continues to disagree with this position, and the Examiner has not cited any prior art reference to support the Examiner's position that SIP was known to those skilled in the art prior to the priority date of the present application as an instant messaging platform.<sup>2</sup> To the contrary, Applicant has previously cited non-prior art documents that indicate that an IETF standards body issued its first RFC discussing a potential implementation of instant messaging over SIP after the priority date of the present application. Applicant requests the Examiner to cite a prior art reference to support the Examiner's position if the Examiner intends to maintain the claim rejections on this basis.

As to the Examiner's reliance on Gudjonsson to describe the setting of one or more rules for responding to a communication attempt to at least one of the communication devices, Applicant does not concur in the way the Examiner has interpreted the descriptions in Gudjonsson, and continues to believe that the Examiner has not considered the claim limitations of the claims as currently presented.<sup>3</sup> For example, claim 1 recites a method that includes

receiving a first instant message from a user through a real-time communication channel that is established by the instant messaging service and containing at least a request to set one or more rules for responding to a communication attempt to at least one of the communication devices;  
setting the one or more rules based on information in the first instant message; and  
transmitting to the user, through the real-time communication channel, a second instant message containing a notification indicating the setting of the one or more rules of the at least one communication device.

As noted by the Examiner, Gudjonsson describes establishing a communication connection between two devices using SIP messages. (Gudjonsson, col. 9, line 65 to col. 10, line 7; Office

<sup>2</sup> The Examiner has cited "Newton's Telecom Dictionary, 20<sup>th</sup> edition" for the assertion that "SIP is an emerging standard for instant messaging." However, Applicant's representative is only aware of a February 2004 publication date for this edition of this reference, which would not qualify as prior art to the present application.

<sup>3</sup> Applicant notes that the Examiner has not correctly set out Applicant's position with respect to Gudjonsson in the "Response to Arguments" portion of the Office Action. Applicant does not assert that Gudjonsson does not describe messages are involved in establishing the communications channel. Applicant asserts that Gudjonsson does not describe any message that requests the setting one or more rules for responding to a communication attempt to a device, or the setting of any such rules.

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Action, p. 4, 7.) However, Gudjonsson does not describe using instant messaging to request the setting of rules for responding to a communication attempt to a device. The portion of Gudjonsson cited by the Examiner merely describes using SIP messages to establish a communication between two devices, not setting the rules indicating how to respond to a communication attempt to a device.

The inapplicability of Gudjonsson is further reflected in that the Examiner has inconsistently applied the description of Gudjonsson to the "one or more rules" recited by the claims. The Examiner initially states that the "routing logic" described in Gudjonsson can be considered the claimed "one or more rules." (Office Action, p. 4; Gudjonsson, col. 3, lines 19-22.) The Examiner then appears to assert (as best as Applicant can understand the argument) that the claimed "one or more rules" correspond to the mere establishment of a SIP communication session. (Office Action, p. 4-5, 7; Gudjonsson, col. 9, line 65 to col. 10, line 7.) Applicant asserts that there is no element described by Gudjonsson in the establishment of the SIP session noted by the Examiner that corresponds to the "one or more rules" recited by the claims, and the Examiner's reliance thereon is erroneous. If the Examiner disagrees with this position, in order to advance the prosecution of this application, Applicant requests that the Examiner specifically identify what item described in Gudjonsson the Examiner is asserting corresponds to the "one or more rules" recited in the claims, and what message includes a request to set these one or more rules.

For at least the foregoing reasons, Gudjonsson does not teach each and every element of claim 1. (Indeed, Applicant believes that Gudjonsson does not teach any element of claim 1.) Applicant therefore respectfully requests that the Examiner withdraw the rejection of claim 1. As claims 2-4 and 16 depend from claim 1, and therefore include all of the limitations of claim 1, Applicant submits that claims 2-4 and 16 are patentable over Gudjonsson for at least the same reasons as claim 1,<sup>4</sup> and therefore Applicant respectfully requests that the Examiner withdraw the rejections of claims 2-4 and 16.

<sup>4</sup> As Applicant's remarks with respect to the base independent claims of the present application are deemed to be sufficient to overcome the Examiner's rejections of all claims dependent therefrom, Applicant's silence as to the Examiner's assertions with respect to any of the dependent claims is not a concession by Applicant to the Examiner's assertions as to these claims, and Applicant reserves the right to analyze and dispute such assertions in the future.

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Claims 5-8 recite computer-readable media capable of configuring a computer to perform the methods of claims 1-4, respectively, and therefore are patentable over Gudjonsson for at least the same reasons as claim 1. Applicant therefore respectfully requests that the Examiner withdraw the rejections of claims 5-8 as well.

Claim 9 recites an apparatus that includes:

- means for receiving a first instant message from a user through a real-time communication channel that is established by the instant messaging service and containing at least a request to set one or more rules for responding to a communication attempt to at least one of the communication devices;
- means for setting the one or more rules based on information in the first instant message; and
- means for transmitting to the user, through the real-time communication channel, a second instant message containing a notification indicating the setting of the one or more rules of the at least one communication device.

Gudjonsson does not teach or suggest such an apparatus. For example, Gudjonsson does not teach or suggest a "means for receiving a first instant message from a user through a real-time communication channel that is established by the instant messaging service and containing at least a request to set one or more rules for responding to a communication attempt to at least one of the communication devices," as recited in claim 9. As noted above, nowhere does Gudjonsson describe any device that receives an instant message from a user through a real-time communication channel that includes a request to set one or more rules for responding to communications attempts to communications devices. Likewise, Gudjonsson does not teach or suggest a "means for setting the one or more rules based on information in the first instant message," as Gudjonsson does not describe any instant messaging that includes information for setting rules for responding to communications requests. Furthermore, Gudjonsson does not teach or suggest a "means for transmitting to the user, through the real-time communication channel, a second instant message containing a notification indicating the setting of the one or more rules of the at least one communication device," as nothing in Gudjonsson describes using instant messaging to send a notification to a user indicating the setting of rules for responding to communications attempts.

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For at least the foregoing reasons, Gudjonsson does not teach each and every element of claim 9. (Indeed, Gudjonsson does not teach any element of claim 9.) Applicant therefore respectfully requests that the Examiner withdraw the rejection of claim 9. As claims 10-12 depend from claim 9, and therefore include all of the limitations of claim 9, Applicant submits that claims 10-12 are patentable over Gudjonsson for at least the same reasons as claim 9, and therefore Applicant respectfully requests that the Examiner withdraw the rejections of claims 10-12.

Claim 17 recites a method that includes:

- receiving a call from the user over the voice network at a speech processor;
- identifying a request to set one or more rules for responding to a communication attempt to at least one of the communication devices associated with the user based on information in the call;
- forwarding the request to the at least one unified communication manager;
- setting the one or more rules based on the information in the call; and
- transmitting to the user, through a real-time communication channel that is established by the instant messaging service, an instant message that contains a notification that indicates the setting of the one or more rules.

Gudjonsson does not teach or suggest such a method. For example, Gudjonsson does not teach or suggest "identifying a request to set one or more rules for responding to a communication attempt to at least one of the communication devices associated with the user based on information in the call" or "setting the one or more rules based on the information in the call," as recited in claim 17. As noted with respect to claim 1, nowhere does Gudjonsson describe identifying a request to set one or more rules for responding to a communication attempt to at least one of the communication devices based on information in a received call, much less setting the one or more rules based on information in the call. Moreover, Gudjonsson does not teach or suggest "transmitting to the user, through a real-time communication channel that is established by the instant messaging service, an instant message that contains a notification that indicates the setting of the one or more rules," as nothing in Gudjonsson describes using instant messaging to send a notification to a user indicating the setting of rules for responding to communications attempts.

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The Examiner has relied upon Matthews to teach a DSP (claimed 'speech processor') in a voice network." (Office Action, p. 6.) However, Matthews does not describe at least those elements noted above that are clearly missing from the description in Gudjonsson.

Since Gudjonsson and Matthews, whether taken alone or in combination, fail to teach or suggest each and every element recited in claim 17, Applicant believes claim 17 is patentable over Gudjonsson and/or Matthews, and respectfully requests that the Examiner withdraw the rejection of claim 17.

### CONCLUSION

In view of the foregoing, Applicant respectfully submits that the pending claims are in condition for allowance. Reconsideration and allowance are respectfully requested. If there are any outstanding issues which need to be resolved to place the application in condition for allowance, the Examiner is invited to contact Applicant's undersigned representative by phone at the number indicated below to discuss such issues. To the extent necessary, a petition for extension of time under 37 C.F.R. § 1.136 is hereby made, the fee for which should be charged to deposit account number 07-2347. With respect to this application, please charge any other necessary fees and credit any overpayment to that account.

Respectfully submitted,

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